RAILWAYS ACT, 1921.

PROCEEDINGS OF THE RAILWAY RATES TRIBUNAL.

SCHEDULES OF STANDARD CHARGES.

DECISIONS ON PRELIMINARY QUESTIONS OF PRINCIPLE.

THURSDAY, JULY 31ST, 1924.

TWELFTH DAY.

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PROCEEDINGS OF THE RAILWAY RATES TRIBUNAL.

THURSDAY, JULY 31ST, 1924.

PRESENT :

W. B. CLODE, ESQ., K.C. (*President*).
W. A. JEPSON, ESQ.
GEO. C. LOCKET, ESQ., J.P.

TWELFTH DAY.

THE SOLICITOR - GENERAL (SIR HENRY SLESSER, K.C.) and MR. W. BOWSTEAD (instructed by the Treasury Solicitor) appeared on behalf of the Minister of Transport.

THE LORD ADVOCATE (THE RT. HON. H. P. MACMILLAN, K.C.), MR. A. C. CLAUSON, K.C., MR. BRUCE THOMAS and MR. ALFRED TYLOR (instructed by the Honorary Solicitors) appeared for the Railway Companies' Association.

THE HON. R. STAFFORD CRIPPS appeared for the London County Council.

MR. F. G. THOMAS, K.C., and MR. JACQUES ABADY (instructed by Sir Thomas R. Ratcliffe-Ellis) appeared for the Mining Association of Great Britain.

SIR DOUGLAS HOGG, K.C., M.P., and MR. F. J. WROTTESLEY (instructed by Messrs. Vizard, Oldham, Crowder and Cash) appeared for the Traders' Co-ordinating Committee; The National Association of Railway Travellers; and the following local authorities: The boroughs of Leeds, Cardiff, Oldham, St. Helens, West Ham, East Ham, Croydon, Woolwich, Gravesend, Richmond, Southport, Watford, Leamington, Morecambe, and Rothesay; and the Urban District Councils of: Dartford, Mitcham, Heston and Isleworth, Teddington, Beddington and Wallington, Surbiton, Harrow-on-the Hill, Prestwich, Epsom, Carshalton, Barnet, Hampton, and Bexley Heath.

MR. HERBERT MORRISON appeared for the National Joint Council of the Trade Union Congress and the Labour Party; and for the London Labour Party.

MR. W. G. R. BOYS and MR. HUGH SHAYLER appeared for the Civil Service Confederation.

MR. S. CARLILE DAVIS appeared for the Plymouth Incorporated Mercantile Association.

MR. GEO. DEW, J.P., L.C.C., appeared for the National Association for the Promotion of Cheap Transit.

MR. JACQUES ABADY (Instructed by Messrs. Kensholes & Prosser, Aberdare) appeared for the Cardiff Collieries, Limited.

MR. A. MOON appeared for the Midland Association of Blast Furnace Owners.

MR. F. C. BORER represented Messrs. Harrods Staff Council.

MR. EDWIN CLEMENTS (instructed by Messrs. Neish, Howell & Haldane) appeared to watch the proceedings on behalf of various Objectors to the Schedules of Standard Charges.

MR. J. H. WORRALL appeared for the National Anti-Profiteering Society.

DECISIONS ON PRELIMINARY QUESTIONS OF PRINCIPLE.

President: The following are our unanimous decisions upon certain questions of principle submitted by agreement of the parties for our opinion as preliminary to a hearing upon the facts. For the purpose of convenience they are given in the form of answers to the questions which have been submitted by the parties.

These answers must be taken as supplemental to our decision upon two points which were much debated at the hearing.

(1st) That what have been called "the accounts of 1913" are not to be considered as conclusive but open to adjustment: That is to say, if parties can propound any precise adjustments which they require or which they think necessary, they are to be accorded an opportunity of so doing.

(2nd) That in dealing with the question of the proper provision to be allowed for maintenance (using the word to cover repairs renewals and depreciation) the whole problem, *i.e.*, of ascertaining what was the true provision that was made in 1913, and what corresponding provision should be made in the year chosen for comparison, should be postponed until the Tribunal deals with the question of the "working expenses" to be allowed in the comparative year.

(1) "So far as practicable yield".
(Companies No. 1. Traders No. 1.)

We do not think that the interpretation of this expression is necessary at this stage of the proceedings.

(2) "An annual net Revenue".
(Companies No. 2.)

We do not dissent from the method employed by the Railway Companies by items No. 1 and No. 2 in the first folio of R.T. 2 (*a*) to R.T. 5 (*a*) of ascertaining so much of the annual net Revenues referred to as represents the aggregate net Revenues in the year 1913 of the constituent and subsidiary companies, and we desire that the Inquiry should be continued upon these lines. No further definition of this term seems to be required.

(3) "Aggregate Net Revenues in the year 1913 of the constituent and subsidiary companies".
(Companies No. 3 and Traders No. 2.)

31 *July*, 1924.] [*Continued.*

This is a question of fact to be determined by evidence upon the lines laid down by the method which the Companies have employed. The published accounts of the Companies showing the net revenues in 1913 will, in the first instance, be received by us as the evidence which, *prima facie*, establishes what these revenues were; but evidence will be received from interested parties tendered with a view to establish that adjustments are necessary in the accounts in order to make them reflect the true net Revenues of the Companies. Particulars of any such adjustments as may be proposed should be submitted to the Tribunal by 30th of September, together with supporting reasons, and copies also sent to other parties interested.

The expression "net revenue for the year 1913 of the Constituent and Subsidiary Companies" is not in our opinion the same thing as "net income," *i.e.*, the net result of Account No. 8, but is to be arrived at after making all proper deductions. The deductions which we have decided to be proper are those included in the method which we have approved above: How far and to what extent any further deductions—*e.g.*, sums appropriated to special reserve—should be made, will be decided when the accounts are finally adjusted under the reservation contained above.

(4) What is meant by "Equivalent."
(Traders 3.)

The definition of the word "equivalent" does not seem necessary for the purpose of any decision which we have to make at this stage. The question of "equivalence" will arise when the new rates are fixed. We shall then have to consider what income may be expected from them and whether that income (with the additiou of other items) will, under the conditions mentioned in Section 58, be "equivalent" to the sum which we are now endeavouring to ascertain. The Tribunal will see that every comparison which has to be made under the Act is made upon such bases, by such methods, and under such conditions as will ensure that the comparison made is the closest and most trustworthy that is possible under the circumstances.

We propose to deal with all questions of credits as a whole when the accounts for any years which have to be compared are presented for comparison.

(5) "Capital Expenditure forming the basis on which interest was allowed at the end of the period."
(Companies No. 4 and Traders No. 4, "What is meant by Capital Expenditure?" Section 58 (1) (*a*) and No. 5, "Allowed at the end of the period").

By the terms of Section 58 (1) (*a*) a sum equal to 5 per cent. is to be given by the Tribunal on Capital Expenditure forming the basis on which interest was allowed by the Government at the end of the period during which the constituent and subsidiary Companies were in the possession of the Government.

Under these words it appears to be the duty of the Tribunal to see whether, in fact, interest was allowed by the Government at the end of the period mentioned on the total which is presented to them for remuneration at 5 per cent.; but this duty does not extend to enquiring how or under what circumstances it was expended by the subsidiary and constituent companies and afterwards allowed for interest, as this duty is imposed on the Minister.

If the Capital Expenditure was made before the period of control ended and allowed for interest subject to verification and adjustment, such Capital Expenditure would not in our view be excluded from the 5 per cent. remuneration, because in fact the verification and adjustment were not concluded upon the 15th August, 1921, and could properly be included in the Minster's Certificate.

(6) "Raised or provided."
(Companies No. 6 and Traders Nos. 6, 7 and 8.)

The evidence shows that for some time past it has been the practice of Railway Companies to provide money to meet expenditure on Capital Account partly out of the proceeds of Capital issued to the public and partly by using such liquid assets representing the accumulated balances of their respective savings bank, pension, superannuation, and general reserve funds as might from time to time be available.

This latter practice is sometimes referred to as "financing the capital account out of the internal resources of the Company." It existed in 1913, when the sum by which capital expenditure exceeded capital receipts amounted to £35,351,703, from 1913 to 1923 when the sum had risen to £49,011,146, and at the close of 1923 when the sum was approximately £52,200,000. It exists at the present time.

It is admitted that this policy has been in the interests of all parties.

It has not been the practice to capitalise the money taken from these resources. It was neither created "Capital" of the Company under any of the Company's statutory provisions, nor has it ever been treated as "Capital Received" in the accounts of the Companies, either when it was first used, upon amalgamation, or subsequently. Ultimately if and when an issue of capital was made, the sums taken from these resources were to that extent replaced: in the meantime the capital account remained overspent.

It was in this state of things that the Railways Act, 1921, was passed. Before that Act legislation had not limited the amount of Revenue which a Railway Company might make, nor prescribed the elements of which it must be made up. Hence, until by the issue of additional capital, new shareholders were introduced to participation, who then existing shareholders took, as an additional increment to the profits of their holding, such additional profits (if any) as the works provided by those uncapitalised funds made.

Now, by the Railways Act, 1921, an artificial statutory "Standard Revenue" has been set up. This has the effect of limiting the amount of Revenue which a Company can earn. Further, although in total this Revenue is one sum, that sum is to be made up of certain specified ingredients—namely, the allowances (to use a negative term), including the Revenues of 1913, which are to be given on certain capital outlays which the Companies have made upon their undertakings, which outlays are represented by capital or capital expenditure.

When the Standard Revenue has been determined, rates are to be fixed proportional to the Revenue to be earned.

It therefore becomes necessary to see how this new system has affected the position of these uncapitalised funds, to see whether they are admitted to recognition as ingredients in Standard Revenue, and how far, if at all, they are to be "remunerated."

The system is based on a recommendation of the Rates Advisory Committee, which recommendation Parliament has embodied in Section 58 of the Act of 1921.

When the introduction of this new system was under discussion, and, later, when it was adopted by Parliament, the Railways were under Government control. The Government had guaranteed the Companies the Revenues of 1913 so long as they remained in possession, and had further agreed to remunerate them for Capital Expenditure (above the line) during the period of control, but calculating that period from the 31st of December, 1912, to the 15th of August, 1921.

Once, then, existed materials out of which a "Standard Revenue" could be constructed. For if the Railway Companies were willing to accept (1) the Revenues of 1913 as fair remuneration for all capital expenditure to the 31st December, 1912, and, (2), the terms which the Government had agreed with them as fair remuneration for all capital expenditure between the 31st of December, 1912, and the 15th of August, 1921—as comes within the arrangement—all that remained would be to provide recognition and remuneration for outlay from 31st December, 1912, onwards, so far as not covered by the allowance under

the Government arrangement, and then the "Standard Revenue" might be complete.

From the structure and language of Section 58 it looks as if Parliament had availed itself of these materials.

Omitting all reference to the "economy allowance" and certain qualificatious, which it is not at this stage material to notice, it will be seen that "Standard Revenue" is by Sectiou 58 constructed of the three ingredients which have been explained above:

(1) A sum equivalent to the net revenues of 1913, subject to augmentation under Section 58 (1) (*c*) if they do not give the full yield to which the capital they remunerate can be considered to be entitled;

(2) A remuneration for capital expenditure (above the line) from the 31st of December, 1912, to the 15th of August, 1921, agreed by the Government and fixed by Section 58 (1) (a) at 5 per cent.;

(3) An allowance for "capital raised or provided" in respect of capital expenditure from the 31st of December, 1912, to the appointed day, which does not fall to be remunerated under the last heading (2), Section 58 (1) (b).

By way of making the scheme complete and in a sense perpetual provisions are inserted under which, at each subsequent revision of the Standard Revenue, the Tribunal are to add an allowance.

(4) For any "additional capital which may have been raised or provided in respect of expenditure on capital account between the date of the original fixing of the Standard Charges and the date of revision." (Section 59 (3).)

Turning to consider the effect which this enactment had upon the "uncapitalised" funds of which we have been speaking, the following appears to be the result.

In the first place, all uncapitalised funds which had been employed in Capital Expenditure and were outstanding at the 31st of December, 1912, were recognised for "Standard Revenue" and remunerated by giving to the railways the Revenues of 1913 to remunerate the Capital Expenditure up to the 31st of December, 1912, inasmuch as the Revenues of 1913 contained the earnings of the works constructed out of the uncapitalised funds.

In the second place, any further uncapitalised funds which had been employed in "Capital Expenditure" (above the line) between the 31st of December, 1912, and the 15th of August, 1921, were recognised for Standard Revenue and remunerated by giving to the railways 5 per cent. on "Capital Expenditure" so defined between these dates.

In both the foregoing cases the then existing shareholders (until by the creation of additional capital new shareholders were introduced) took any profits made by the uncapitalised funds.

But if we look at the terms of Section 58 (1) (*b*), it is by no means clear that uncapitalised funds expended on capital account between the 31st of December, 1912, and the appointed day, which do not fall to be remunerated under Section 58 (1) (*a*), are recognised for Standard Revenue or remunerated.

This appears to be the question we have to decide.

This question may be considered on the form and on the language of the section, particularly that of Section 58 (1) (*b*). And, first, on the form of the section. If the section is looked at as a whole it will be seen that although the items or ingredients of which the Standard Revenue is made up—namely, the net revenues of 1913, the 5 per cent. allowance under Section 58 (1) (*a*) and the allowance under Section 58 (1) (*b*), will, when added together, merge and form one total, they are still in themselves separate and self-contained. It appears to be the intention of the Legislature that each item remunerated shall find its remuneration and its only remuneration in the revenue, percentage, or allowance which is ascribed to it in the subsection which deals with it, and that which has already received what the legislature deems to be its adequate remuneration in the subsection dealing with it, shall not receive additional remuneration under another subsection which does not on the face of it appear applicable.

But if an allowance under Section 58 (1) (*b*) is given to this uncapitalised expenditure which has been made, and rates are fixed to provide it, and the allowance is earned, and a profit realised, this profit, by reason of the fund being uncapitalised and there being no shareholders to represent it, will go (at all events until new shareholders have been called into existence) as an augmentation of income to the already existing shareholders, who are already being remunerated by receiving as their remuneration the revenues of 1913, and the 5 per cent. allowance under Section 58 (1) (*a*).

We do not think this was the intention of the Section; and in our opinion a consideration of the language of Section 58 (1) (*b*) confirms this view.

Up to the close of Section 58 (1) (*a*) "Capital Expenditure" is made the basis of recognition for remuneration; but the language of Section 58 (1) (*b*) changes and substitutes the phrase "additional Capital raised or provided in respect of expenditure on Capital account."

Thus, although it uses in its words of definition the expression "expenditure on Capital account," which is the equivalent of "Capital expenditure," it deliberately passes it by and selects something else for recognition and remuneration—viz.: "Capital raised or provided in respect of expenditure on capital account." We do not think that by the phrase which it prefers, it can mean the same thing as by the phrase which it supersedes.

Next the phrase is "*additional* capital raised or provided"; that is, capital of the same status and legal incidents as the capital to which it is to be called—that is "capital" in its true sense.

Further, it will be seen that thereafter at every subsequent revision, "capital expenditure" is never made the basis of recognition for remuneration but always "additional capital raised or provided in respect of expenditure on capital account."

These considerations lead us to the conclusion that the legislature intended in Section 58 (1) (*b*) and thenceforward to make "capital" and not "capital expenditure" the basis of recognition for standard revenue, and that mere "capital expenditure" is ineligible for allowance under Section 58 (1) (*b*). We find, therefore, that the uncapitalised funds for which an allowance is asked are ineligible.

If this interpretation is correct it must be conceded that although Parliament adopted and embodied in the Statute the outstanding bargains with the companies, touching the revenues of 1913 and the 5 per cent. allowances, and by so doing recognised "capital expenditure" as the basis, they nevertheless decided that for the remaining purposes of the Section "capital raised or provided" was a surer foundation.

At first sight this may seem capricious and inexplicable, but upon consideration it will be seen that it is based upon adequate and reasonable grounds; it certainly involves consequences of importance to the railways and traders alike.

In the first place, it is possible to determine with greater accuracy the amount of an allowance necessary adequately to remunerate "Capital raised or provided," than the amount of an allowance necessary to do the same thing for an uncapitalised fund. In the former case the inquiry is *ex post facto*; in the latter a decision must be in the nature of a prophecy. It would be a misfortune if, after the allowance had been fixed by the Tribunal, the Company capitalised the expenditure in question on a basis of interest higher or lower than the allowance given,

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ERRATA.

Page 325. Column 2—line 42 :
For "called" read "added."

Page 327. Column 2—line 58 :
For "parites" read "parties."

46038)

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and so proved that the allowance given was either unnecessary or inadequate.

It may well be that Parliament did not intend either the companies, the traders, or the Tribunal to be exposed to this risk.

In the second place, so long as it remains an uncapitalised fund, discussions may, and, indeed, have arisen as to the parties to whom the uncapitalised fund belongs, whether to the traders as part of the deductions from gross receipts which go to build up the insurance and superannuation funds, or to the shareholders as part of the free reserves of the company which they are entitled to distribute as profit; and what, in either event, should be the destination of the allowance, if any. As soon as the fund is capitalised all these difficulties disappear, the capital is the capital of third parties, the shareholders, and as such both parties are liable to provide income.

There is no reason why Parliament should not have foreseen this difficulty and provided against it by the special language which they used.

Lastly, the interpretation which we adopt recommends itself on this further ground, that it avoids tampering at the outset of our task with the plain ordinary and legal meaning of the word "capital." Our task is to consider how this word used in a Statute regulating railway companies, governed as we have more than once been reminded by the Companies Clauses Consolidation Act, 1845, should be construed. It seems more reasonable to interpret that word in the sense in which by the foregoing Act it must be interpreted by the companies when employed elsewhere in connection with their undertakings, than to commit the solecism of interpreting it otherwise simply for the purposes of one section of the Act of 1921.

If the above interpretation is correct, one course for the railway companies to pursue would seem to be "to raise or provide additional capital in respect of expenditure on capital account incurred since the 1st day of January, 1913, and not included in the expenditure referred to in the last preceding paragraph." We have been assured that they have capital powers sufficient for this purpose. They can then claim an allowance on "capital raised or provided." The Act also contemplates that they will take a similar course before the expiry of every subsequent period for revision. In the meantime they can finance their capital account out of their own resources.

The capital so to be raised or provided would seem to be approximately between £9,000,000 and £10,000,000.

It has been urged that the interpretation which we are adopting robs the expression "capital provided" of all meaning and empties it of content: for, if what the railway companies contend to be "capital provided" is held not to be so, there remains nothing else which can be so considered. We venture to suggest that capital provided may be intended to cover capital created and issued for exchange purposes but not "raised" from the public, seeing that this is some of the "capital" for which we are asked to find an allowance under Section 58 (1) (*b*).

7. "Remunerate adequately."
(Companies No. 5 and Traders No. 12.)

This will be decided when the whole circumstances, under which any capital has been "raised or provided," have been laid before us in evidence.

8. "Expenditure on Capital Account since."
(Companies No. 7.)

We think that the Great Western Railway Company's claim under this head should be adjusted subject to verification by the elimination of the credits which they have given in respect of adjustments made in their Capital Account upon amalgamation which were merely book-keeping entries.

9. "Expenditure on Capital Account incurred."
(Traders No. 9.)

In our opinion "expenditure on Capital account incurred" is limited to expenditure incurred by the amalgamated Company and/or one of its constituent or subsidiary Companies. Whether it includes money invested in other undertakings is a question of fact to be decided after the consideration of the circumstances attending the investment in question.

It should not be overlooked that provision is made in "Account No. 4" for "subscriptions to other Companies." Loans to other railways (excluding the case of "J" Joint Lines) might similarly be in the nature of subscriptions under statutory authority to other Companies or temporary investments which could not be treated as "expenditure on capital account." The expenditure on Capital account includes advances for capital purposes to a "J" Joint Line where the Net Revenue of that line, or a share of it, is brought into the account of the Company making the advance.

10. "Such allowance as appears to the Rates Tribunal to be reasonable."
(See Companies 8 and Traders 15.)

In our opinion the railway companies failed to establish that they were entitled to deal collectively with all the works mentioned in Section 58 (1) (*c*) by a single formula, or to establish by any sufficient evidence the propriety of the average of 15 years upon which it rested. In our opinion the matter must be submitted to us again on different lines.

We add our interpretation of Section 58 (1) (*c*) for the information of the parties.

This subsection must be read in connexion with and as supplementary to the provisions in the earlier part of Section 58, under which the companies are given the revenues of 1913 as the remuneration for all Capital expenditure up to 31st December, 1912. The Legislature then goes on to provide in effect by Section 58 (1) (*c*) that, if the railway companies can show the Tribunal that some of that capital expenditure is not being adequately remunerated by the provision under which it gets the revenues of 1913 for its remuneration, they can bring such cases before the Rates Tribunal and claim a reasonable allowance on it.

The way the Legislature by the subsection deals with the problem is as follows:—

First, it excludes capital expenditure on any work which has not cost £25,000.

Then, recognising a distinction between "enhancing" and "non-enhancing" works, it excludes all capital expenditure on any work of £25,000 and upwards which does not enhance the value of the undertaking.

Lastly, it throws upon the railway companies the onus of proving, in respect of capital expended on works which satisfy the previous requirements of the section, that such works had not at the beginning of the year 1913 become fully remunerative.

The object of this last provision is, as it appears to us, to enable the Tribunal to measure the allowance which is reasonable. The difference between what the works were in fact earning at the end of 1912 and what they would have earned had they become fully remunerative being, speaking generally, the measure of the allowance which should be given.

Now, this machinery which the Act creates for measuring the "reasonable allowance" operates and, in our opinion, was intended to operate by way of limitation, and to restrict the cases which could be brought before the Tribunal to those in which the proof required by the Statute can be given.

In many cases the proof required by the Statute can be given, as, indeed, the railway companies in their evidence have shown; but in many cases it appears to us that it cannot. For instance, who can say what a subway from Euston to the Underground Railways constructed in 1907 was earning at the end of December, 1912, and what it would earn if it was fully remunerative? Further illustrations of similar items could be given.

These cases are, in our opinion, outside the purview of the section, because they cannot satisfy the demands for proof required by the Statute.

What the railway companies have done, and, in our opiuion, done erroneously, is to endeavour to make the cases in which proof can be given support and carry with them, under the inadmissible presumption of an average, a variety of miscellaneous expenditure made for 15 years prior to 1913, in which no such proof as the Statute requires appears capable of being given, and which, if our interpretation is correct, would be excluded.

We do not think that the stress of the subsection, if we may so express it, is on the words "work" or "enhance," although we must, of course, give the proper significauce to those terms when we consider the cases presented to us. The crucial point is, can it be sufficiently demonstrated in the case of any particular work that satisfies all the other requirements of the section what it was earning at the beginniug of 1913, and what it might have been expected to have been earning had it been fully remunerative?

It is upon the lines indicated above that we shall proceed when we deal with cases under Section 58 (1) (*c*).

While we have neither the desire nor the ability to deprive the parties of any rights which they may possess under the Statute, we would earnestly impress upon them that a little accommodation on both sides may win for them more satisfactory results than can be obtained by a series of long and costly investigations. We gladly recognise that the railway companies have evinced their readiness to deal with the matter in this spirit, and we can only hope that this example will not be lost upon others whose interests are not more vital.

11. "Works," "Enhancement," and "Fully remunerative."

We do not propose to attempt a definitiou of these words which are of wide import and capable of including all the manifold things which can be called "works," and all the various influences which can be called "enhancement."

We must assume that Parliament, when it used them, intended to give to the parties and to the Tribunal all the latitude which the use of wide language renders possible. It would be wrong, therefore, to narrow their content by definition.

If this is so, they can only be "defined" by words of equal content, which would be a paraphrase and useless; or by a precise enumeration of the things or classes of things which can be included in the expression "works," and all the various influences which can be called "enhancement."

It is unlikely that anyone should succeed in this latter task, especially if it is undertaken apart from a consideration of all the varying circumstances under which the definition has to be applied.

We thiuk that this accounts for the unsuccessful attempts at definition which were made in the course of the proceedings.

We propose to use them without further definition, as we believe that they were intended to be used, when we are in possession of all the facts in connection with any specific case or cases under Section 58 (1) (*c*) with which we are called upon to deal.

12. "Undertaking."

(Traders No. 10.)

The "Undertaking" referred to in the expression "enhance the value of the undertaking" is the amalgamated undertaking in respect of which a schedule of rates is under consideration, and means the undertaking and works of whatever nature authorised to be executed by the Act or Acts regulating such undertaking.

Our decisions are intended to cover the points raised by the London County Council, and are given after takiug into consideration the observations of the Ministry of Transport.

We should not like to separate for the Vacation without impressing upon all parties coucerned the desirability of using their best efforts to expedite and to shorten this costly Inquiry. We cannot avoid a feeling of disappointment at the progress which has been made up to the present. While recognising the enormous amount of labour which has been expended upon the preparation of the material submitted to us, and acknowledging the substantial and gratifying measure of agreement which has been obtained, we would suggest that all preparatory work for the subsequent stages should be pushed on so as to enable us to proceed with the Inquiry consecutively after September. We shall be glad to consider during the Vacation any suggestion that may be submitted to us with this object, and it might be useful if the companies would indicate when they expect to be ready to present their figures relating to the economies,' expenditure, and ancillary businesses. I dare say you cannot indicate that at the present time, Mr. Bruce Thomas?

Mr. Bruce Thomas: I am afraid we cannot at the moment, Sir. Before we say anything about that, might I ask one thing in reference to the decision you have just delivered? It may be that the one party or the other may require to go to the Court of Appeal on one or more points.

President: Certainly.

Mr. Bruce Thomas: My application is that this Court would extend the time for appealiug to the 14th of October. By doing that, I do not think it means that the appeal, if there be an appeal, will be heard any later because of this extension. The 14th of October is the second day of next term; and I imagine that if an appeal were lodged in this matter, an application will be made to the Court of Appeal to expedite it; and the appeal would not be many lower down in the list if it were lodged by the 14th of October than it would be if it were lodged, say, in 14 days from now. However that may be, I do not think it would make any difference to an application to expedite. It would not matter whether it were fifty down in the list or one hundred down in the list, if the Court of Appeal thought it was a proper case where an order for expedition should be made. I suggest that this Court extends the time for appeal, to any party who wishes to appeal upon any point, to the 14th of October.

Mr. Baggallay: On behalf of the Traders' Co-ordinating Committee and the other parties represented by my friends Sir Douglas Hogg and Mr. Wrottesley, and also on behalf of the Mining Association, I should like to associate myself with what Mr. Bruce Thomas has said. We also feel that there will not be any undue delay by so doing; and, of course, there are a large number of persons to be consulted as to whether an appeal should be lodged or not.

President: Have you anything to say, Mr. Solicitor?

Solicitor-General: Only this, Sir, that so far as expedition is concerned—of course we should not be direct parties to the appeal, but in so far as we could move the Court we should do everything we could also to expedite the hearing of the appeal. No doubt the views of the Minister would be taken into consideration on that point.

President: That will not operate as any delay in getting on with the rest of the business, will it?

Mr. Bruce Thomas: No; I do not think it will affect it at all.

President: Neither of you hereafter would come and say: "You have extended the time and we understood that would be a sort of moratorium"?

Mr. Bruce Thomas: No, Sir, that is not the intention at all.

President: Very well. Then my colleagues and I are quite content that it should be so.

Mr. Bruce Thomas: Then there is just one other point. If anyone thought of appealing, it would be necessary to have some Order upon which to appeal; and perhaps we might at a later stage, before the time for the lodging of the appeal arises, consider the question, if necessary, with the Tribunal, or with the learned Registrar, of the form of the Order.

President: Yes, I should like you to do that; and every facility will be given to you, of course, to get an Order in such form that an appeal could be had upon it. We understood, in proceeding as we have proceeded, that we proceeded to meet the convenience of the parties in giving these preliminary decisions, or opinions, upon questions of law, and we hoped they were so given that they would be taken up to the Court of Appeal and decided in their true sense if we have decided wrongly. We will do anything to further that by issuing any such Order as is required.

Mr. Bruce Thomas: Then I do not think we need trouble about the form of the Order at the moment. We shall have an opportunity of considering the Judgment when we receive the print, and it would be only necessary that we should obtain a formal Order if there is going to be any appeal before the date for lodging the appeal.

President: Quite so.

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